Yoder, et al v. Town of Morristown, et al Doc. 31

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Via ECF

Honorable George H. Lowe
United States Magistrate Judge
United States District Court
Northern District of New York
Syracuse, New York 13261

Re: Yoder, et al. v. Town of Morristown,
Civil Case No.: 09-cv-0007 (TJM/GHL)

Your Honor:

We write in response to Plaintiffs' application to the Court and to petition the Court pursuant to Local Rule 83.12-6(f) on behalf of the Defendants. We respectfully request that Defendants and their insurance carrier be allowed to appear at the ENE conference via telephone.

With respect to the insurance carrier, we do not anticipate that any monetary resolution will be reached and are not recommending any monetary resolution that would involve the insurance carrier. Given Plaintiffs' religious beliefs, we have no reason to believe that a monetary resolution would even be permitted by Plaintiffs' religion. Our carrier is located on Long Island and there is no local representative with authority to participate in the ENE. Given the travel and Defendants' position with respect to settlement, we respectfully request that our insurance carrier participate via telephone.

With respect to Defendants, given Plaintiffs' position with respect to the ENE, the fact that Plaintiffs themselves will not be available directly during the ENE, and further, that Plaintiffs have represented that they need an interpreter, it will be extremely difficult to ascertain whether Plaintiffs themselves actually understand and will ultimately be able to consent to any proposed settlement. Furthermore, should Defendants be present at the ENE without Plaintiffs' presence, it would appear that the ENE is serving to allow Plaintiffs' counsel the opportunity obtain discovery and inquire of the Defendants through an informal procedure - a process that would not be available to Defendants due to Plaintiffs' absence.

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Thus, it is respectfully requested that, in order to to conduct a productive ENE, one that will place the parties on an even playing field, that both the Defendants' insurance carrier and Defendants be permitted to appear via telephone.

Thank you.

Respectfully submitted,

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